

Misbranding of the article was alleged in the information for the reason that the statements, to wit, "Guaranteed Analysis Protein 10% Fat 2% * * * Fibre 15%" and "Guaranteed Analysis Protein 10%, Fat 2%," regarding respective portions of the "Ozark" feed, and "Guaranteed Analysis Protein 10%," regarding the "Dakota" feed, borne on the labels, were false and misleading in that the said statements represented that the article contained 10 per cent of protein, that the "Ozark" feed contained 2 per cent of fat, and that a portion of the said "Ozark" feed contained 15 per cent of fiber, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it contained the amount of protein, fat, and fiber declared in the said statements, whereas it contained less than 10 per cent of protein, the "Ozark" feed contained less than 2 per cent of fat, and a portion of the said "Ozark" feed contained more than 15 per cent of fiber.

At the said November, 1927, term of court a plea of guilty to the information was entered on behalf of the defendant company and the court imposed a fine of \$50.

W. M. JARDINE, *Secretary of Agriculture.*

15546. Adulteration of frozen eggs. U. S. v. 625 Cans of Frozen Eggs. Consent decree of condemnation and forfeiture. Product released under bond. (F. & D. No. 22289. I. S. No. 20953-x. S. No. 340.)

On December 15, 1927, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying seizure and condemnation of 625 cans of frozen eggs, consigned by the U. S. Cold Storage Co., Kansas City, Mo., remaining in the original unbroken packages at New York, N. Y., alleging that the article had been shipped from Kansas City, Mo., on or about November 25, 1927, and transported from the State of Missouri into the State of New York, and charging adulteration in violation of the food and drugs act.

It was alleged in the libel that the article was adulterated, in that it consisted in whole or in part of a filthy, decomposed, or putrid substance, to wit, rotten, sour, and musty eggs.

On January 4, 1928, Ralph Hurst, Kansas City, Mo., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant upon payment of the costs of the proceedings and the execution of a bond in the sum of \$5,000, conditioned in part that it be salvaged by separating the good portion from the bad portion, and the latter destroyed or denatured.

W. M. JARDINE, *Secretary of Agriculture.*

15547. Adulteration and misbranding of mustard. U. S. v. Louis H. Morehouse (Morehouse Mustard Mills, Packers Supply Co.). Plea of guilty. Fine, \$600. (F. & D. No. 19680. I. S. Nos. 12004-v, 12005-v, 20064-v, 20065-v, 20215-v, 20216-v, 20277-v, 20807-v.)

On November 27, 1925, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Louis H. Morehouse, a member of a copartnership trading as Morehouse Mustard Mills, and Packers Supply Co., Oakland, Calif., alleging shipment by said defendant, in various consignments, between the dates of February 27, 1924, and July 7, 1924, from the State of California into the States of Washington, Oregon, Nevada, and Utah, respectively, of quantities of mustard which was adulterated and misbranded. The article was labeled, variously: "Salad Morehouse Mustard, Mustard Seed, Mustard Cake, Vinegar, Spices, Salt and Turmeric, Morehouse, Oakland, Los Angeles, Seattle;" "Prepared Old English Style Morehouse Mustard, Mustard Seed, Vinegar, Spices, Salt and Turmeric, Morehouse Mustard Mills, Los Angeles, Oakland;" "Prepared French Style, Morehouse Mustard Seed, Mustard Cake, Vinegar, Spices, Salt, Morehouse, Oakland, Los Angeles, Seattle;" "Palace Car Brand Salad Mustard."

It was alleged in the information that the article was adulterated, in that added mustard bran had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality and strength, and had been substituted in part for the said article.

Misbranding was alleged with respect to a portion of the article for the reason that the statements, to wit, "Salad Morehouse Mustard, Mustard Seed, Mustard Cake, Vinegar, Spices, Salt and Turmeric," "Prepared Old English Style Morehouse Mustard, Mustard Seed, Vinegar, Spices, Salt and Turmeric," "Prepared French Style Morehouse Mustard, Mustard Seed, Mustard Cake, Vinegar, Spices, Salt," borne on the respective labels, were false and misleading in that the said statements represented the article to be mustard, or prepared mustard, containing solely the declared ingredients, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it was mustard, or prepared mustard, containing solely the declared ingredients, whereas it was not mustard, or prepared mustard containing solely the said named ingredients, in that it contained mustard bran. Misbranding was alleged with respect to the remainder of the product for the reason that the statement, to wit, "Salad Mustard," borne on the label, was false and misleading in that the said statement represented the article to be salad mustard containing solely the usual ingredients for prepared mustard, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it was salad mustard containing solely the usual ingredients for prepared mustard, whereas it contained, among other ingredients, mustard bran. Misbranding was alleged with respect to all of the said article for the further reason that it was offered for sale under the distinctive name of another article.

On January 12, 1928, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$600.

W. M. JARDINE, *Secretary of Agriculture.*

15548. Adulteration and misbranding of prepared mustard. U. S. v Louis H. Morehouse (Morehouse & Co.). Tried to a jury. Verdict of guilty. Fine, \$400 and costs. (F. & D. No. 15052. I. S. No. 10125-t.)

On September 8, 1921, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Louis H. Morehouse, a member of a partnership trading as Morehouse & Co., Oakland, Calif., alleging shipment by said defendant, in violation of the food and drugs act, on or about July 21, 1920, from the State of California into the State of Washington, of a quantity of prepared mustard which was adulterated and misbranded. The article was shipped in barrels, labeled, in part: "Morehouse * * * Prepared Old English Mustard Colored with Turmeric. Emeryville, Cal."

Adulteration of the article was alleged in the information for the reason that a substance, to wit, mustard hulls, had been mixed and packed therewith so as to lower, reduce, and injuriously affect its quality and strength, and had been substituted in part for mustard, which the said article purported to be. Adulteration was alleged for the further reason that the article was a product inferior to mustard, to wit, a product composed in part of mustard hulls, and was colored with turmeric, so as to simulate the appearance of mustard and in a manner whereby its inferiority to mustard was concealed.

Misbranding was alleged for the reason that the statement "Mustard," borne on the barrels, was false and misleading in that the said statement represented that the article was composed wholly of mustard, and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it was composed wholly of mustard, whereas it was not so composed, but was composed in part of mustard hulls.

On January 10, 1928, the case came on for trial before the court and a jury. After the submission of evidence and arguments by counsel the court charged the jury as follows (Kerrigan, D. J.):

"Gentlemen of the Jury: The information in this case, as you already know, is based upon what is called the Pure Food and Drug Act of June 30, 1906. You have already been made familiar with the contents of the information, and it will be unnecessary for me at this time even to state the substance of it. I might, however, in this connection, state that at the time of the arraignment the defendant pleaded not guilty, thus putting in issue all the material elements or allegations of the information, and casting upon the Government the duty of establishing its case against the defendants to a moral certainty and beyond a reasonable doubt. The information will be handed to you by the bailiff when you retire to deliberate upon your verdict.